



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/04505/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 12 April 2019**

**Decision & Reasons Promulgated
On 30 April 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SYED [Z]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Dingley

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 15 March 1979 and is a male citizen of Pakistan. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 22 March 2018 which had refused his claim for international protection/human rights. The First-tier Tribunal, in a decision promulgated on 20 December 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing before the Upper Tribunal, Mr Diwnycz, who appeared the Secretary of State, told me that the respondent accepted that the

judge had erred in law such that his decision fell to be set aside. I shall, therefore, be brief in giving my reasons for setting aside the decision.

3. The appellant has a genuine and subsisting relationship in the United Kingdom with his children one of whom (aged 10 years) had, at the time of the hearing before the First-tier Tribunal, has been living in this country for more than seven years and who is, therefore, 'a qualifying child' for the purposes of Section 117B(6) of the 2002 Act. The judge makes no reference to section 117B(6). He appears to have been aware of the need to consider the reasonableness of expecting a child who had been living in the United Kingdom for more than seven years to leave but his analysis at [28] consists of no more than the observation that the activities which the child enjoys in this country (cricket, going to school attending karate classes) could be pursued in Pakistan and that the Tribunal had not 'heard any evidence as to whether those activities could be carried out in Pakistan.' Such an approach is not adequate. The assessment of reasonableness does not consist in simply considering whether activities enjoyed by child in the United Kingdom might be pursued outside the jurisdiction.
4. I set aside the judge's decision and I have remade the decision. I was not asked to revisit the First-tier Tribunal's findings in respect of the asylum appeal which shall stand. However, as regards Article 8 ECHR, I am grateful to Mr Diwnycz for his observation that the appeal should be allowed. In the light of *KO (Nigeria)* 2018 UKSC 53, the assessment of reasonableness is a child-focused exercise. I agree with both representatives that, upon consideration of the relevant evidence, it would not be reasonable for the child to be expected to leave the jurisdiction in which he has resided for more than seven years. In consequence, the public interest does not require the removal of the appellant and, by extension, his wife.

Notice of Decision

The decision of the First-tier Tribunal is set aside. The appellant's appeal against the decision of the Secretary of State is dismissed on asylum grounds but allowed on human rights (Article 8 ECHR) grounds.

Signed

Date 22 April 2019

Upper Tribunal Judge Lane